NEWS RELEASE

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A.G. KING ANNOUNCES FINDINGS OF HIS GAMBLING REVIEW

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(MONTGOMERY)— Attorney General Troy King today announced the findings from his unprecedented, hands-on evaluation and review of gambling occurring in Alabama. The review was initiated as a result of complaints received from individuals and groups and began on July 2 with the first of several tours of gambling facilities in the state. The Attorney General made public his findings today "because I have now completed my initial review of gambling in Alabama. In the future, as in the past, so long as gambling occurs in Alabama, my review can never be complete."

As a preface to his remarks Attorney General King stated that "I feel compelled to share with you my own view of gambling. I am personally opposed to gambling and have voted against its expansion when the opportunity has been presented. I believe that gambling creates more social ills than can be cured by the revenue it generates. I do not believe that gambling is a responsible or a sure way to fund the operation of government. I do not believe that gambling is a reliable economic development engine. I do believe that gambling preys upon the desperate and the hopeless."

Attorney General King also noted that "It is not my job as Attorney General, however, to determine whether Alabama will allow gambling. It is not my personal belief on a public policy matter that controls my actions as Attorney General, but, instead, it is the law and my duty to faithfully enforce it that must guide me. This office must, and will, so long as I am Attorney General, operate in adherence to one standard – the law. I took an oath and pledged to the people of Alabama that I would be true to the law. That is what I have done in this case."

"The process I undertook has been challenging. It has required my staff and me to become familiar with the patchwork of complex laws that govern gambling in our land. These laws are a complicated mix of federal statutes, regulations promulgated by the Indian Gaming Regulatory Commission, constitutional amendments, and local regulatory schemes."

Alabama is a state with an unusual provision in her constitution that allows for the enactment of constitutional amendments affecting less than the whole state. In Alabama there are eighteen different local constitutional amendments authorizing some form of bingo in either a particular city or county. From this morass of legal authority, it has become clear that there are four categories of gambling occurring in Alabama today: (1) gambling occurring in facilities operating without a constitutional amendment; (2) gambling occurring in facilities operating with a valid constitutional amendment; (3) gambling occurring in facilities operating pursuant to a flawed constitutional amendment; and (4) gambling occurring in facilities operating on Native American tribal lands.

1. Facilities operating without a constitutional amendment: Section 65 of Alabama's constitution contains a clear and unequivocal prohibition against the conduct of lotteries. A lottery has been defined by the courts of Alabama to be an activity where a player pays to play for the opportunity to win a prize based on chance. Bingo clearly falls within this definition and, without a further enablement in the constitution, is prohibited. The Alabama Legislature has also allowed for the operation of amusement machines pursuant to Section 13A-12-76, Code of Alabama of 1975. This is known as the Chuck E. Cheese law and permits for the play of machines where skill predominates over chance in determining the outcome of the game, and prizes are limited to items valued at no more than five dollars, which cannot be paid in cash.

   There are facilities operating gambling operations within Alabama where lotteries or bingo are conducted and played on machines without any legal authority. When the operators of these facilities make payouts in cash, they are in direct violation of state law. Attorney General King emphasized that "where we find instances of this type of illegal gambling occurring, we will take strong enforcement actions, as we took in Pike County on August 13 of this year. To those who operate these facilities, the message is simple: prepare to pay the price."

2. Facilities operating under a valid constitutional amendment: Amendments 743 and 744 authorizing the facilities such as Greenetrack and Victoryland provide for the playing of bingo. The use of the word bingo is the source of much of the debate regarding what type of gambling is allowed in Alabama. Bingo evolved from a game that has been played in Italy since 1530. The game made its way across Europe and to the United States some time in the 1920s under the name "beano." In late 1929, Edwin S. Lowe discovered the game and renamed the game "bingo." This game is the game we recognize today as "bingo." It is a game played on a grid consisting of five horizontal and five vertical squares containing numbers that are covered up as numbers are randomly drawn and that is won when a preordained pattern is covered on the card. There are believed to be over 1.4 million variations of the "bingo" card. This is a game that must be played against other players and not played as a house banked game.

   Bingo has evolved from its origins hundreds of years ago to cards where the numbers are covered by buttons or other markers, to sheets of paper where the numbers are daubed with a paint pen, to laptop computer-like devices where multiple cards can be played simultaneously, to video consoles where the bingo game is simulated using computer chips. It is machines of this final sort that are most prominently on display at Greenetrack and Victoryland and which have been the focus of much of the controversy in Alabama surrounding the legality of these operations.

   The games played on these video consoles must have certain important features to be bingo: First, the game must incorporate the typical features of traditional bingo, including, but not limited to, a grid of five horizontal and five vertical squares, numbers randomly selected, and a preordained winning pattern. Spinning wheels and other video graphics must not affect game play. Second, just as in traditional bingo halls, players on the machines must compete against one another. Consequently, the electronic machines must be linked so that players are competing against each other to permit the machines to comply with the constitutional requirement of "bingo." For example, such a machine might depict a bingo card in the upper left hand corner of the machine, and as the game play commences, balls containing numbers begin to fall. When a number depicted on the card is dropped, it would be marked on the cards of those playing and players would win prizes in the same manner that they win prizes in traditional bingo halls. If the machines at any facility should ever be determined to be operating independently or hosting games for single participants, then these facilities would be operating outside the bounds of the constitutional grant and would be subject to the appropriate legal action.

   It cannot be concluded, as some have, that just because the game is being played on video consoles, it is not "bingo." Just as no one would contend that e-mails are any less a form of correspondence than are letters written with a quill pen, but instead represent a technological evolution in correspondence, similarly, bingo games that are depicted on a video console can still be bingo--albeit a technologically advanced form of bingo--but bingo nonetheless.

Attorney General King's conclusion is that, as a matter of law, machines that operate in the manner described above are permissible under the broad language of Amendment 743 relating to Greene County and Amendment 744 relating to Macon County. Attorney General King warned that "under no circumstances, however, should anyone construe my comments here today to mean that Class III gaming, as defined under the Indian Gaming Regulatory Act, is permissible in the state of Alabama. Machines that do not operate as I have described are not bingo and violate state law."

The Attorney General's Office continues to work closely with local, state and federal authorities to ensure that, in the future, the machines being played in these facilities are of the type commonly known as bingo and none other.

"My initial review has revealed a number of machines that exceed the definition of bingo that I have described for you today. Play of these machines should be discontinued and they should be reprogrammed or replaced to comply with my findings today" said King.

3. Facilities operating under a flawed constitutional amendment: As Attorney General King reviewed the gambling operations across Alabama, he studied the underlying amendments authorizing the operation of these facilities. During this process, it came to his attention that the facility in White Hall, Alabama, in Lowndes County, is operating pursuant to a constitutional amendment that was flawed in its ratification.

   Amendment 555 of Alabama's Constitution establishes three prerequisites for the approval of a local constitutional amendment: First, the amendment must be passed by a three-fifths vote of both Houses of the Legislature; second, the amendment must pass without a dissenting vote in either House of the Legislature; and third, the amendment must be approved as being local in nature by the Local Constitutional Amendment Commission that is composed of the Governor, the Attorney General, the Lieutenant Governor, the Speaker of the House of Representatives, and the Secretary of State. Amendment 732, the amendment granting the Town Council of White Hall the right to license bingo operations, as it moved through the Legislature, had a dissenting vote cast against it by then Senator George Callahan. Consequently, ratification of this amendment should have been on a statewide, not a local, ballot.

   Attorney General King has instructed members of his staff to file a declaratory judgment action asking the courts to invalidate this amendment as improperly ratified and fatally flawed. Although White Hall has another, more general bingo amendment, Amendment No. 674, its provisions are too restrictive to allow the facility at White Hall to continue operating as it presently does. Once the Amendment is invalidated, the attorney general's office will then pursue an injunction to halt the current operation of the gaming facilities in White Hall.

4. Gambling on Indian tribal lands: Attorney General King has been clear since the beginning of his review that, as Attorney General, he did not have any jurisdiction over Indian tribal land gaming operations. Violations of federal regulations within the borders of Alabama are of great concern to him as a citizen and as Attorney General. However, as he has stated previously, it is his intention to refer any Indian gaming violations to the appropriate federal authorities, many of whom he has met and consulted with in recent months. Because he was asked by them not to disclose their discussions, he will have no comment on this subject.

Attorney General King stated that "my office has now completed the most exhaustive review of gambling within the borders of Alabama. The people of Alabama should take heart in knowing that this review has been comprehensive. Where illegal gambling is occurring in our state, steps have either already been taken or are in the process of being taken to enforce the law and stop these activities. I believe that the pro-active stance taken by my office and my personal involvement has sent an important message that the laws of this state will be enforced. These findings should bring clarity to the law allowing both the proponents and opponents of gambling to know the legal bounds within which gambling must operate in Alabama and allowing those charged with enforcing the law to do so more effectively."

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